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Mary E. Golota Cantor Colburn LLP 201 W. Big Beaver Road Suite 1101 Troy, MI 48084				
EXAMINER				
FRANK, NOAH S				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 12/30/08 have been fully considered but they are not persuasive.

In response to applicant's arguments regarding the 112 rejections, they are deemed persuasive. The rejection has been withdrawn.

The amended claims are not being entered as they raise the new issue of the polyurethanepolyol being hydrophobic, rather than just free of ionic and potentially ionic groups.

In response to applicant's arguments regarding the combination of Woltering, Mayer, and Ott, all three references teach a preference for using ionic groups, or so-called internal emulsifiers. However, Ott shows that external emulsifiers are an equivalent of internal emulsifiers (¶0068-69), namely ionic groups. While Ott does not himself use external emulsifiers, he recognizes that the prior art teaches these two as equivalents. Woltering additionally teaches that the particles are obtained even without the aid of additional external emulsifiers if the slurry of the invention contains a certain amount of potentially ionic groups (3:30-40). While Woltering teaches that internal emulsifiers are preferred, and indeed excludes external emulsifiers from his invention, it is clear that the possibility exists to substitute the two, as Woltering himself states the possibility. This is not teaching away from external emulsifiers, as no disadvantages are taught, only a preference for internal emulsifiers, which naturally are not used in

combination with external emulsifiers. Clearly, the prior art shows that external emulsifiers are an alternative to using ionic groups in the polyurethane. Therefore, substituting external emulsifiers for internal emulsifiers, while in no way the preferred embodiment, would not render Woltering unsuitable for its intended purpose, as the function of the ionic groups remains.

In response to applicant's arguments regarding the film-forming temperature versus the glass transition temperature, it is understood that this is not the T<sub>g</sub>, but Woltering teaches that the glass transition temperature may also be described, as a substitute, by the minimum film-forming temperature of the dispersion (8:30-40), and as such are understood to be substantially identical.

In response to applicant's allegations of unexpected results, it is noted that there are no comparative examples in which an internal emulsifier has been used.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOAH FRANK whose telephone number is (571)270-3667. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/  
Supervisory Patent Examiner, Art Unit 1796

NF  
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